in accordance with their value. See POMEROY, EQUITY JURISPRUDENCE (Ed. 2), §§ 1943-1945; *Hansen* v. *Crouch*, 98 Ore, 141. In *Continental Fuel Co.* v. *Haden*, 182 Ky. 8, the court was asked to cancel a mining lease upon the ground that the lessees had committed waste by failing to operate the mines in a workmanlike manner. This was refused because the injury to complainants was inconsequential as compared to the loss of $100,000 in mining machinery and equipment installed in the mine by the defendant. It is seen that this decision is in harmony with the distinction which has been drawn between the case where the complainant's injury is actually small and the case where his injury is clearly substantial but proportionately less than the injury to the defendant. The courts will more readily refuse an injunction upon balancing injuries in the former case than in the latter. *Campbell* v. *Seaman*, 63 N. Y. 568. The technical or imponderable nature of the plaintiff's injury seems also to have been considered in *Bliss* v. *Washoe Copper Co.*, 109 C. C. A 133. This factor was present in the principal case, since the beneficial character of the changed use of the property made the plaintiff's injury, if any, purely technical, and, together with the uncertainty of his ultimate property right, causes the result reached to appear preëminently just. It should be noted, however, that in the cases above referred to, and in those cited in POMEROY, *supra*, the plaintiff would have alternative recourse to a suit for damages at law, while in the principal case, as pointed out above, refusing an injunction leaves the plaintiff without a remedy. It is well, however, to confine the relief which equity grants to a contingent remainderman to those cases in which equitable considerations are more clearly in his favor.

NEGLIGENCE—PARTY GUILTY OF CONTRIBUTORY NEGLIGENCE AS MATTER OF LAW BECAUSE STRUCK BY AUTOMOBILE HAVING RIGHT OF WAY.—While crossing a street at a speed of 15 miles an hour the plaintiff was struck by the defendant, who was coming along a cross street at 35 miles an hour and had the right of way by statute. *Held*, the plaintiff was guilty of contributory negligence as a matter of law. *Anderson* v. *Jenny Motor Co.* (Minn., 1921), 185 N. W. 378.

The rule laid down in the principal case is taken from the Minnesota decision of *Lendahl* v. *Morse*, 181 N. W. 323, in which negligence in law is confused with negligence in fact. It is submitted that in the principal case Holt, J., takes the sounder view in his dissenting opinion when he says: "There are so many varied circumstances in every accident at a street crossing that the question of whose fault it was should be determined by the triers of fact." He further points out that "under the rule of the *Lindahl* case an ox team could never cross a downtown street of Minneapolis, except possibly between 2 a. m. and 6 a. m., for some reckless speeders to the right of the team would surely be in time to hit the rear of the wagon, even if two blocks away when the team first entered the intersection." Obviously, the whole matter of who was to blame for the accident should be left to the jury with proper instructions as to the law applicable to the circumstances.

Authority in other jurisdictions is uniformly against the holding in the principal case. A driver having the right of way at a street crossing is not justified in plunging ahead regardless of consequences nor failing to exercise ordinary care to avoid injury to others. *Glatz* v. *Kroeger Bros. Co.,* 168 Wis. 635. "If we assume the defendant had the right of way the conditions must be such as to justify him in the absolute exercise of the right. In any event, his right on the highway is not exclusive, but at all times relative and still subject to the fundamental common law doctrine: *Sic utere tuo ut alienum non laedas.*" *Paulsen* v. *Klinge,* 92 N. J. L. 99. The right of precedence at a crossing has no application where one not having that right approaches the crossing and has no reasonable grounds for apprehending a collision because of the distance from the crossing of one having such right. *Barnes* v. *Barnett,* 184 Iowa 936. Furthermore, "the rule regarding the right of way does not impose upon the person crossing the street the duty of assuming that the other will continue to cross an intersecting street without slowing down, as required by law." *Whitelaw* v. *McGilliard,* 179 Cal. 349. Perhaps in the principal case the fact was that the plaintiff was guilty of contributory negligence because of a failure to yield the defendant the right of way, but whether or not this was so should have been found as a matter of fact rather than as a matter of law.

PERJURY—ACQUITTAL OF CRIME CHARGED NO BAR TO SUBSEQUENT PROSECUTION FOR PERJURY.—Defendant was convicted of perjury for giving false testimony at a previous trial in which he was acquitted of a charge of receiving stolen property. The conviction of perjury was inconsistent with the prior acquittal. *Held,* acquittal was no bar. *People* v. *Niles* (Ill., 1921), 133 N. E. 252.

The general rule is that acquittal on a criminal charge is no bar to a subsequent prosecution of the defendant for perjury. The cases of *United States* v. *Butler,* 38 Fed. 498, and *Cooper* v. *Commonwealth,* 106 Ky. 909, to the contrary, have been seriously questioned and expressly overruled respectively by *Allen* v. *United States,* 194 Fed. 664, and *Teague* v. *Commonwealth,* 172 Ky. 665. In some cases it has been said that if the conviction of perjury necessarily contradicts the previous acquittal, the latter is a bar. *Chilwood* v. *United States,* 178 Fed. 442; *State* v. *Smith,* 119 Minn. 107. The logic of treating the matter as *res judicata* is somewhat impaired by recalling that the prior acquittal was essentially a failure to find the defendant guilty beyond a reasonable doubt rather than a finding that he was not guilty. Thus, if an acquittal were held conclusive of the fact *a fortiori,* a conviction should have the same effect. Sound policy seems to require that a defendant taking the stand in his own behalf should not be able to perjure himself with utter impunity, nor should his immunity depend upon the convincingness with which he lies. For notes and citations of authorities see 39 L. R. A. (n. s.) 385; L. R. A. 1917 B 743.

PUBLIC UTILITY CORPORATIONS—RIGHT TO DISCONTINUE SERVICE.—The O Company entered into a contract with a village to supply it with gas for ten